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IN THE

Supreme Court of the United States

October Term, 1957

No. 411.

HELENE MARCEAU SIDEBOTHAM,

Petitioner,

vs.

W. A. ROBISON, Administrator of Estate of Robert Sidebotham, deceased, ROBERT SIDEBOTHAM and JAMES SIDEBOTHAM,

Respondents.

PETITIONER'S REPLY BRIEF.

MANUEL RUIZ, JR.,
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Attorney for Petitioner.

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Respondents have filed a reply brief to petition for writ of certiorari by attributing to Petitioner an unaltruistic purpose which is not borne out by the record, but intended to prejudice the reader, who for purposes of these proceedings will not have an opportunity to examine the same. Nor would the unfounded aspersions cast against petitioner, in any event be material, to the granting of the Petition.

The substance of the Petition filed by the Petitioner is in no manner distinguished by the cases cited by Respondent, who has created a "false premises" and then proceeded to argue against the same. By this procedure

Respondent is "playing fast and loose" with the Supreme Court, as it is generally known before the bar, that Petitions for Certiorari must of necessity be summarily passed upon, because of the tremendous burden which confronts said court, to separate the chaff from the wheat.

Thus, Respondent has continued to remain silent concerning the fact that the Petitioner was not decedent's widow, at the time of his death, and was a stranger to the estate. Respondent does not challenge this concededly admitted "correct" premise. Petitioner does not contend that the State Probate Court has a separate official status as Respondent erroneously claims. In speaking of said court, the Supreme Court of the State of California in *Schylen v. Schylen*, 43 Cal. 2d 361, made it clear that claims of title between the estate and strangers cannot be tried in the Probate Court, since the Probate Court is without jurisdiction. (See App. "C," p. 20 of Opinion.) See also the California State Law as enunciated in its Probate Code in Appendix "A" wherein the Los Angeles Superior Court is limited in its jurisdiction while sitting in probate, even though the Los Angeles Superior Court be a Court of General Jurisdcition. For the Respondent to take up the time of the Supreme Court, in defining particular functions of the State Courts of General Jurisdiction, while ignoring the "jural relationships" which govern the subject matter indispensable to jurisdiction in particular cases, is tantamount to claiming that the estate of a "live person" may be probated. In the case at bar, the petitioner alleged affirmatively that the decedent had "died intestate during the month of December 1951," and further stated that Petitioner and the decedent were divorced on "November 14, 1946" which was five years before the decedent died. Any recital by her that she was an "heir" and any decision by the Probate Court that

she was not an "heir" has never precluded her from asserting her rights as a "stranger" in the case at bar, as she may have no rights as an "heir," but still have rights as a "stranger."

It is to be lamented that Respondents have succeeded thus far in interchanging and confusing two different and distinct jural relationships to the extent of having invited the grossest of interference whereby a Federal Court, contrary to the Federal Constitution, is clothing a State Court with jurisdiction and powers which it is prohibited to exercise by State law. If this procedure be taken one step further, a Federal Court by the same circumvention could create by this expediency State Courts, by attributing to them attributes of power which under State law they cannot exercise. If, for no other reason at all, the Supreme Court ought set at rest, this sensitive matter, at once, at a time that certain State Courts in the south are straining to read between the lines, concerning the powers of the Federal Judiciary.

Respectfully submitted,

MANUEL RUIZ, JR.,

Attorney for Petitioner.